

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 144

HOUSE BILL 2462

AN ACT

AMENDING SECTION 9-471, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-471.03; RELATING TO MUNICIPAL ANNEXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-471, Arizona Revised Statutes, is amended to
3 read:

4 9-471. Annexation of territory; procedures; notice; petitions;
5 access to information; restrictions

6 A. The following procedures are required to extend and increase the
7 corporate limits of a city or town by annexation:

8 1. A city or town shall file in the office of the county recorder of
9 the county in which the annexation is proposed a blank petition required by
10 paragraph 4 of this subsection setting forth a description and an accurate
11 map of all the exterior boundaries of the territory contiguous to the city
12 or town proposed to be annexed. Notice and a copy of the filing shall be
13 given to the clerk of the board of supervisors and to the county assessor.
14 The accurate map shall include all county rights-of-way and roadways with no
15 taxable value that are within or contiguous to the exterior boundaries of the
16 area of the proposed annexation. If state land, other than state land
17 utilized as state rights-of-way or land held by the state by tax deed, is
18 included in the territory, written approval of the state land commissioner
19 and the selection board established by section 37-202 shall also be filed.

20 2. Signatures on petitions filed for annexation shall not be obtained
21 for a waiting period of thirty days after filing the blank petition.

22 3. After filing the blank petition pursuant to paragraph 1 of this
23 subsection, the governing body of the city or town shall hold a public
24 hearing within the last ten days of the thirty day waiting period to discuss
25 the annexation proposal. The public hearing shall be held in accordance with
26 the provisions of title 38, chapter 3, article 3.1, except that,
27 notwithstanding the provisions of section 38-431.02, subsections C and D, the
28 following notices of the public hearing to discuss the annexation proposal
29 shall be given at least six days before the hearing:

30 (a) Publication at least once in a newspaper of general circulation,
31 which is published or circulated in the city or town and the territory
32 proposed to be annexed, at least fifteen days before the end of the waiting
33 period.

34 (b) Posting in at least three conspicuous public places in the
35 territory proposed to be annexed.

36 (c) Notice by first class mail sent to the chairman of the board of
37 supervisors of the county in which the territory proposed to be annexed is
38 located.

39 (d) Notice by first class mail with an accurate map of the territory
40 proposed to be annexed sent to each owner of the real and personal property
41 as shown on the list furnished pursuant to subsection G of this section that
42 would be subject to taxation by the city or town in the event of annexation
43 in the territory proposed to be annexed. For purposes of this subdivision,
44 real and personal property includes mobile, modular and manufactured homes
45 and trailers only if the owner also owns the underlying real property.

1 4. Within one year after the last day of the thirty day waiting period
2 a petition in writing signed by the owners of one-half or more in value of
3 the real and personal property and more than one-half of the persons owning
4 real and personal property that would be subject to taxation by the city or
5 town in the event of annexation, as shown by the last assessment of the
6 property, may be circulated and filed in the office of the county recorder.
7 For purposes of this paragraph, real and personal property includes mobile,
8 modular and manufactured homes and trailers only if the owner also owns the
9 underlying real property.

10 5. No alterations increasing or reducing the territory sought to be
11 annexed shall be made after a petition has been signed by a property owner.

12 6. The petitioner shall determine and submit a sworn affidavit
13 verifying that no part of the territory for which the filing is made is
14 already subject to an earlier filing for annexation. The county recorder
15 shall not accept a filing for annexation without the sworn affidavit.

16 B. All information contained in the filings, the notices, the
17 petition, tax and property rolls and other matters regarding a proposed or
18 final annexation shall be made available by the appropriate official for
19 public inspection during regular office hours.

20 C. Any city or town, the attorney general, the county attorney, or any
21 other interested party may upon verified petition move to question the
22 validity of the annexation for failure to comply with the provisions of this
23 section. The petition shall set forth the manner in which it is alleged the
24 annexation procedure was not in compliance with the provisions of this
25 section and shall be filed within thirty days after adoption of the ordinance
26 annexing the territory by the governing body of the city or town and not
27 otherwise. The burden of proof shall be upon the petitioner to prove the
28 material allegations of his verified petition. No action shall be brought
29 to question the validity of an annexation ordinance unless brought within the
30 time and for the reasons provided in this subsection. All hearings provided
31 by this section and all appeals therefrom shall be preferred and heard and
32 determined in preference to all other civil matters, except election actions.
33 In the event more than one petition questioning the validity of an annexation
34 ordinance is filed, all such petitions shall be consolidated for hearing. If
35 two or more cities or towns show the court that they have demonstrated an
36 active interest in annexing any or all of the area proposed for annexation,
37 the court shall consider any oral or written agreements or understandings
38 between or among the cities and towns in making its determination pursuant
39 to this subsection.

40 D. The annexation shall become final after the expiration of thirty
41 days from the adoption of the ordinance annexing the territory by the city
42 or town governing body, provided the annexation ordinance has been finally
43 adopted in accordance with procedures established by statute, charter
44 provisions, or local ordinances, whichever is applicable, subject to the

1 review of the court to determine the validity thereof if petitions in
2 objection have been filed.

3 E. For the purpose of determining the sufficiency of the percentage
4 of the value of property under this section, such values of property shall
5 be determined as follows:

6 1. In the case of property assessed by the county assessor, values
7 shall be the same as shown by the last assessment of the property.

8 2. In the case of property valued by the department of revenue, values
9 shall be appraised by the department in the manner provided by law for
10 municipal assessment purposes.

11 F. For the purpose of determining the sufficiency of the percentage
12 of persons owning property under this section, the number of persons owning
13 property shall be determined as follows:

14 1. In the case of property assessed by the county assessor, the number
15 of persons owning property shall be as shown on the last assessment of the
16 property.

17 2. In the case of property valued by the department of revenue, the
18 number of persons owning property shall be as shown on the last valuation of
19 the property.

20 3. If an undivided parcel of property is owned by multiple owners,
21 such owners shall be deemed as one owner for the purposes of this section.

22 4. If a person owns multiple parcels of property, such owner shall be
23 deemed as one owner for the purposes of this section.

24 G. The county assessor and the department of revenue, respectively,
25 shall furnish to the city or town proposing an annexation within thirty days
26 after a request therefor a statement in writing showing the owner, the
27 address of each owner and the appraisal and assessment of all such property.

28 H. Territory is not contiguous for the purposes of subsection A,
29 paragraph 1 of this section unless:

30 1. It adjoins the exterior boundary of the annexing city or town for
31 at least three hundred feet.

32 2. It is, at all points, at least two hundred feet in width, excluding
33 rights-of-way and roadways.

34 3. The distance from the existing boundary of the annexing city or
35 town where it adjoins the annexed territory to the furthest point of the
36 annexed territory from such boundary is no more than twice the maximum width
37 of the annexed territory.

38 I. A city or town shall not annex territory if as a result of such
39 annexation unincorporated territory is completely surrounded by the annexing
40 city or town.

41 J. Notwithstanding any provisions of this article to the contrary, any
42 town incorporated prior to 1950 which had a population of less than two
43 thousand persons by the 1970 census and which is bordered on at least three
44 sides by Indian lands may annex by ordinance territory owned by the state

1 within the same county for a new townsite which is not contiguous to the
2 existing boundaries of the town.

3 K. The provisions of subsections H and I of this section shall not
4 apply to territory which is surrounded by the same city or town or which is
5 bordered by the same city or town on at least three sides.

6 L. A city or town annexing an area shall adopt zoning classifications
7 which permit densities and uses no greater than those permitted by the county
8 immediately before annexation. Subsequent changes in zoning of the annexed
9 territory shall be made according to existing procedures established by the
10 city or town for the rezoning of land.

11 M. The annexation of territory within six miles of territory included
12 in a pending incorporation petition filed with the county recorder pursuant
13 to section 9-101.01, subsection C shall not cause an urbanized area to exist
14 pursuant to section 9-101.01 which did not exist prior to the annexation.

15 N. As an alternative to the procedures established in this section,
16 a county right-of-way or roadway with no taxable real property may be annexed
17 to an adjacent city or town by mutual consent of the governing bodies of the
18 county and city or town if the property annexed is adjacent to the annexing
19 city or town for the entire length of the annexation and if the city or town
20 and county each approve the proposed annexation as a published agenda item
21 at a regular public meeting of their governing bodies.

22 O. On or before the date the governing body adopts the ordinance
23 annexing territory, the governing body shall have approved a plan, policy or
24 procedure to provide the annexed territory with appropriate levels of
25 infrastructure and services to serve anticipated new development within ten
26 years after the date when the annexation becomes final pursuant to subsection
27 D of this section.

28 P. If a property owner prevails in any action to challenge the
29 annexation of the property owner's property, the court shall allow the
30 property owner reasonable attorney fees and costs relating to the action from
31 the annexing municipality.

32 Q. A CITY OR TOWN MAY ANNEX TERRITORY THAT IS A COUNTY OWNED PARK, A
33 PARK OPERATED ON PUBLIC LANDS BY A COUNTY AS PART OF A MANAGEMENT AGREEMENT
34 OR LAND OWNED BY A FLOOD CONTROL DISTRICT IF OTHERWISE AGREED TO BY THE BOARD
35 OF SUPERVISORS. FOR THE PURPOSES OF THIS SUBSECTION, "PUBLIC LANDS" HAS THE
36 SAME MEANING PRESCRIBED IN SECTION 37-901.

37 Sec. 2. Title 9, chapter 4, article 7, Arizona Revised Statutes, is
38 amended by adding section 9-471.03, to read:

39 9-471.03. Return of certain land to county; procedures

40 A. NOTWITHSTANDING ANY OTHER LAW, TERRITORY MAY BE DEANNEXED, SEVERED
41 AND RETURNED TO THE COUNTY BY A CITY OR TOWN IF THE TERRITORY IS A COUNTY
42 OWNED PARK, A PARK OPERATED ON PUBLIC LANDS BY A COUNTY AS PART OF A
43 MANAGEMENT AGREEMENT OR LAND OWNED BY A FLOOD CONTROL DISTRICT.

1 B. THE GOVERNING BODY OF A CITY OR TOWN THAT INTENDS TO RETURN THE
2 TERRITORY TO THE COUNTY SHALL BY ORDINANCE SET FORTH THE LEGAL DESCRIPTION
3 OF THE TERRITORY AND SHALL DECLARE THE DEANNEXATION AND RETURN OF THE
4 TERRITORY CONTINGENT ON THE FULFILLMENT OF THE CONDITIONS OF THIS SECTION.

5 C. THE BOARD OF SUPERVISORS OF THE COUNTY THAT INTENDS TO RECEIVE THE
6 RETURNED TERRITORY SHALL BY ORDINANCE SET FORTH THE LEGAL DESCRIPTION OF THE
7 TERRITORY AND SHALL DECLARE THE RETURN OF THE TERRITORY CONTINGENT ON
8 FULFILLMENT OF THE CONDITIONS OF THIS SECTION.

9 D. THE BOARD OF SUPERVISORS SHALL SET A PUBLIC HEARING NOT LESS THAN
10 THIRTY NOR MORE THAN SIXTY DAYS AFTER THE DATE THE ORDINANCE IS FILED. ON
11 THE HOLDING OF THE PUBLIC HEARING, THE BOARD OF SUPERVISORS MAY ORDER THAT
12 THE TERRITORY BE RETURNED AS SPECIFIED IN THE ORDINANCE AUTHORIZED BY THE
13 CITY OR TOWN.

APPROVED BY THE GOVERNOR MAY 6, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2002.

Passed the House April 1, 2002,

by the following vote: 49 Ayes,

0 Nays, 11 Not Voting

[Signature]
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 30, 2002,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

Charmine Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2002,

at 2:50 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 6th day of

May, 2002,

at 4:22 o'clock P M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 7 day of May, 2002

at 3:13 o'clock P M.

[Signature]
Secretary of State

H.B. 2462